

BOARD OF ETHICS
OPEN SESSION MINUTES

January 23, 2013 - 3:12 p.m.
740 North Sedgwick, Suite 500

BOARD MEMBERS PRESENT

Stephen W. Beard, Chair
Russell F. Carlson
Mary T. Carr
Frances R. Grossman
Daisy S. Lezama

Hon. Michael J. Gallagher (Absent)
Hon. Julia M. Nowicki (Absent)

STAFF PRESENT

Steven I. Berlin, Executive Director
Lisa S. Eilers, Deputy Director
Richard J. Superfine, Legal Counsel
Ana Collazo, Attorney/Investigator
Edward Primer, Program Director
Pally Casillas, Staff Assistant

I. APPROVAL OF MINUTES

The Board VOTED 5-0 (Michael J. Gallagher and Julia M. Nowicki, absent) to approve the Open Session Minutes of the December 12, 2012 meeting, as amended.

II. CHAIR'S REPORT

Deferred.

III. EXECUTIVE DIRECTOR'S REPORT

A. Education—Classes

Since the last board meeting, staff has conducted 1 regularly scheduled class for persons required to attend face to face ethics training sessions every 4 years: on December 19, 17 persons attended. The next 2 classes are scheduled for tomorrow, January 24, and February 7. 34 persons are scheduled to attend.

On December 14 and January 18, staff conducted 60 minute training sessions for 37 new employees of the Departments of Aviation and Streets & Sanitation through Laborers' International Union, Local 1001. The next class is scheduled for February 1. On December 19, we conducted a 60 minute seminar for all 15 new members and 15 management staff of the Commission on Human Relations, at the request of the Commission's Executive Director. On January 11 and 18, we conducted a 90 minute seminar for 105 inspectors and managers of the Department of Buildings. The last of 3 such classes is scheduled for February 1; we expect 52 attendees. On February 4, we will conduct a 90 minute seminar for approximately 14 members of the senior management staff of the Chicago Public Library, at the request of its Commissioner.

B. Education–Mandatory Annual Ethics Education

As of January 1, 2013, there were 433 employees and officials who had not yet completed training. As of 2:45 pm this afternoon, all but 72 employees had completed their annual 2012 training. All of them are, by law, subject to a determination that they violated the Ordinance, fines of \$250 per day until they comply, and to having their names made public in the manner the Board determines. For administrative purposes, staff has divided these people into two groups. We will discuss them further in Executive Session.

We have identified ethics officers from all City departments and ward offices. We are scheduling at least 3 classes to train them in their duties, and new developments in the law, as required by the Ordinance. We will hold these classes in February, and will instruct them on statements of financial interests monitoring.

We are currently working on 5 training programs: one for appointed officials, one for new employees, one for aldermen, one for departing employees, and one for lobbyists. We have new software that will enable us to embed video and graphics, thereby making the experience more “interactive” and appealing to “different learning styles.”

C. Lobbyists

As of today at 2:30p.m., 436 lobbyists have filed registration statements and paid their annual registration fees. \$108,800.00 has already been deposited with revenue; money is deposited regularly (lobbyists may pay their fees on line as well). Lobbyists are registering and filing reports as we meet.

D. Sister Agencies’ Roundtable

The next meeting of the ethics officers from the CTA, CPS, CCC and CHA will be February 20.

E. Statements of Financial Interests

For 2012, we had 14,576 required to file. To date, 14,387 have filed; 189 have not and were found in violation already; they still must file and pay a \$20 filing fee. We have collected \$25, 480 in late fees. We will have 100 cases to close out in Executive Session—these are cases in which the person’s department has reported back to us with what disciplinary action they have taken.

We are nearing completion of the complex programming necessary to change the EFIS system over to the new criteria for identifying filers of annual Statements. We have received the names of filers from all but 4 aldermanic offices. We anticipate 3,200 filers for 2013.

F. Ethics Ordinance Amendments

The amendments that were introduced on November 15 and based on Part II of the Report of Mayor's Ethics Reform Task Force are still in committee. We believe a substitute amendment will be submitted based on comments from our agency, the Law Department, and the 2 Inspectors General. Currently, I am scheduled to give a day of aldermanic briefings on January 30.

Once we see the changes, we will work to amend our Rules & Regulations (last amended in February 2010).

G. Amendments to the Illinois Governmental Ethics Act/Lt. Governor Sheila Simon

I submitted to LCGA, as something to consider for the Springfield agenda, possible revisions to the state ethics form, the "Statement of Economic Interests" (which about 3,000 City personnel, including Board of Ethics members, file every year). The revisions are based on work done by a committee on which I served, convened by Lt. Gov. Simon. It included representatives from the County Clerk, Chicago Kent Law School. The Lt. Governor's Office, the BGA, and the Illinois Campaign for Political Reform. Based on this work, the Lt. Gov. and State Sen. Kotowski introduced an ethics reform package, Senate Bill 3941 (now also sponsored by Sen. Heather Steans). We believe that the new form has been revised so that it's now relevant and simple, a big step in the direction of meaningful ethics reform in the state. It's one of the finer pieces of drafting on which I've worked. It is currently in committee. No changes would be effective until the 2014 filing year.

H. Illinois Freedom of Information Act

Since the last regularly scheduled Board meeting, the office has received 1 new request under the Freedom of Information Act comprising a request for records for three lobbyists including lobbying filings, correspondence and advisory opinions about six clients of the lobbyists'. This agency had no responsive records.

IV. DEPUTY DIRECTOR'S REPORT

None.

V. OLD BUSINESS

None.

VI. NEW BUSINESS

A. 2013 Board Meeting Schedule

The Board members reviewed the existing 2013 meeting schedule, decided to consider modifications and to communicate them to Board staff.

The Board VOTED 5-0 (Michael J. Gallagher and Julia M. Nowicki, absent) to adjourn into Executive Session at 3:50 p.m. under 5 ILCS 120/2(c)(1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.

THE RECONVENED OPEN SESSION

After the Executive Session, the Open Session of the meeting reconvened at 5:54 p.m.

VII. MATTERS CONSIDERED BY THE BOARD IN EXECUTIVE SESSION

Please Note: *At 5:46 p.m., during the executive session proceedings, Board member Frances R. Grossman excused herself from the remainder of the January 23, 2013 meeting.*

I. APPROVAL OF EXECUTIVE SESSION MINUTES

The Board VOTED 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) to approved the minutes of the November 14, 2012 meeting in executive session.

II. CASES

A. Statement of Financial Interests

Employee – 2012 Cases to be Closed

1. Case No. 12044.03.FIS, Closing File
2. Case No. 12044.01.FIS, Closing File

3. Case No. 12044.400.FIS, Closing File
4. Case No. 12044.402.FIS, Closing File
5. Case No. 12044.444.FIS, Closing File
6. Case No. 12044.445.FIS, Closing File
7. Case No. 12044.446.FIS, Closing File
8. Case No. 12044.447.FIS, Closing File

Appointed Officials – 2012 Cases to be Closed

9. Case No. 12045.05.FIS, Closing File
10. Case No. 12045.06.FIS, Closing File
11. Case No. 12045.10.FIS, Closing File
12. Case No. 12045.16.FIS, Closing File
13. Case No. 12045.22.FIS, Closing File
14. Case No. 12045.27.FIS, Closing File

Staff reported that the employees and appointed officials were in violation of the Ethics Ordinance for failing to timely file the 2012 Statements of Financial Interests form as determined at the August 15, 2012 Board meeting. Staff reported that it confirmed the subsequent filing of the FIS and that staff received a report from the applicable City division regarding its actions. Staff requested that the Board close those cases and adopt a sample draft letter advising the divisions that the Board has closed the cases. The Board VOTED 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) to approve staff's report to close the cases listed above.

Employee – 2012 Cases to be Vacated

15. Case No. 12044.423.FIS, Vacate Determination
16. Case No. 12044.426.FIS, Vacate Determination
17. Case No. 12044.439.FIS, Vacate Determination
18. Case No. 12044.126.FIS, Vacate Determination

Staff reported that employees did not appear on any of the lists providing names of employees on leave or separated from the City, although they were on leave. Since they did not receive proper notice of filing, they should not have had determinations made against them at the August 15, 2012 Board meeting. Staff reported that it confirmed the subsequent filing of the FIS and that staff received a report from the applicable City division regarding its actions. Staff requested that the Board vacate those cases and adopt a sample draft letter advising the divisions that the Board has vacated the cases. The Board VOTED 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) to approve staff's report to vacate the cases listed above.

B. Advisory Opinions

19. Case Nos. 12067.1A and 12067.2A, Limitations under Ordinance on Not-For-Profits

The Board discussed a draft advisory opinion to counsel for two nonprofits, addressing whether IRC sec. 501(c) organizations may accept donations from companies doing business with the city under sec. 2-156-142 of the Governmental Ethics Ordinance.

By a VOTE of 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent), the Board determined that the Ordinance does not apply to the nonprofits in question, but given that many of the organizations' directors and members are elected officials, the Board urged transparency on behalf of the nonprofits with respect to their donors and donations.

C. Lobbying

20. Case No. 12046.46.LOB, Request to Vacate Suspension and Fine Determination
21. Case No. 12041.47.LOB, Request to Vacate Fine Determination

These two cases involved the same former lobbyist, albeit under two different lobbyist provisions of the Ordinance (late filing of the January through June, 2012 activity report and non-completion of the mandatory annual 2011-2012 lobbyist training). The Board considered prior Board's determinations of violations of those provisions and sanctions imposed. The Board VOTED 3-1 (Daisy S. Lezama, voted against; Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) to: (i) continue the violations; (ii) impose an increased fine for the training violation (subject to the former lobbyist's communications on this matter to the Board after notice); (iii) hold the fine for the filing violation in abeyance, but only until any attempted re-registration as a lobbyist by this former lobbyist; and (iv) direct staff to send letters to the former lobbyist, copying appropriate parties.

D. Dismissed/Referred Complaint Report

22. Case No. 12071.C, No Jurisdiction

Staff reported that case no. 12071.C was from a private citizen alleging the theft of her personal property by City employees. Staff dismissed the complaint because it was a criminal matter outside the jurisdiction of the office and because it did not implicate potential violations of the City's Ethics Ordinance. The Board VOTED 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) to approve staff's report.

23. Case No. 13002.C, No Jurisdiction

Staff reported that case no. 13002.C involved issues regarding union matters that did not implicate potential violations of the City's Ethics Ordinance. Staff dismissed the case and suggested the complainant contact Labor Relations in the Department of Human Resources, and/or a private attorney. The Board VOTED 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) to approve staff's report.

E. Mandatory Online Ethics Training – Non Compliances

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| 24. Case No. 13001.3.TR | 39. Case No. 13001.45.TR |
| 25. Case No. 13001.7.TR | 40. Case No. 13001.47.TR |
| 26. Case No. 13001.10.TR | 41. Case No. 13001.48.TR |
| 27. Case No. 13001.11.TR | 42. Case No. 13001.50.TR |
| 28. Case No. 13001.12.TR | 43. Case No. 13001.51.TR |
| 29. Case No. 13001.15.TR | 44. Case No. 13001.52.TR |
| 30. Case No. 13001.17.TR | 45. Case No. 13001.607.TR |
| 31. Case No. 13001.19.TR | 46. Case No. 13001.613.TR |
| 32. Case No. 13001.21.TR | 47. Case No. 13001.614.TR |
| 33. Case No. 13001.24.TR | 48. Case No. 13001.620.TR |
| 34. Case No. 13001.28.TR | 49. Case No. 13001.626.TR |
| 35. Case No. 13001.33.TR | 50. Case No. 13001.629.TR |
| 36. Case No. 13001.42.TR | 51. Case No. 13001.630.TR |
| 37. Case No. 13001.43.TR | 52. Case No. 13001.631.TR |
| 38. Case No. 13001.44.TR | 53. Case No. 13001.634.TR |

The Board considered each of the City's employees who had been identified thus far as being non-compliant with their mandatory online ethics training requirement pursuant to Ordinance, and VOTED 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) to direct staff to formulate a complete list of non-compliant employees and present those persons to the Board for further proceedings in accordance with the Ordinance.

F. Office of the Legislative Inspector General

54. Case No. 13003.OLIG

The Board reviewed and authorized by a VOTE of 4-0 (Michael J. Gallagher, Julia M. Nowicki and Frances R. Grossman, absent) a request by the Legislative Inspector General to commence an investigation of an employee of a City Council Committee.

III. OTHER BUSINESS

G. Review of Proposed Draft Letter and Guide

The Executive Director presented the Board with a draft guide to the provisions of the Ordinance that apply to appointed City officials, and a draft cover letter from the Chair. The Chair said that he had some comments and suggested changes to the cover letter, which he would discuss with staff after the meeting.

H. Review of Executive Director's Report

The Executive Director reported that he, the Chair, and Deputy Eilers have reviewed the latest drafts of the proposed changes based on Part II of the Tasks Force's Report, and made comments to the Mayor's Office of Legislative Counsel and Government Affairs and Law Department. Currently, he is to meet with representatives from the Mayor's Office on January 28, present a day of briefings to the aldermen on January 30, and then appear before the City Council's Rules Committee on February 7. The Mayor's intention is to have the proposal passed by the City Council at the February 13 meeting. The Board's prior comments have been incorporated into the proposal, but we believe that the City Council will raise strenuous objections to the provisions in the proposal that enable the Legislative Inspector General to initiate investigations on his own and on anonymous complaints. Several potential compromises are being discussed.

The Board VOTED 4-0 to adjourn the meeting at 6:02 p.m.